IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.48 OF 2006

IN

SUIT NO.1774 OF 2005

...

Kishordas Shamjibhai Mehta ...Plaintiff

v/s.

Alaknanda Stainless Ltd.
and ors. ...Defendants

...

Mr.Sanjay Jain i/b Mr.H.V.Chande for the Plaintiff.

None for the Defendants.

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CORAM: D.K.DESHMUKH, J.

DATED: 27TH JUNE, 2006

P.C.:

1. The suit of the Plaintiff is based on the bill of exchange drawn by Defendant No.1, accepted by Defendant No.2 and in relation to which the letter of guarantee is given by Defendant No.3.

2. The first defence of the Defendants is that the suit is barred by the law of limitation. It is undisputed that the bill of exchange is dated 15-2-2002, the due date was 15-5-2002, the plaint has been lodged in court on 13-5-2005, therefore the suit is within limitation.

3. The second defence raised by the Defendants is that the Defendant No.1 has been notified under the Bombay Relief Undertaking Act, 1958. The learned Counsel appearing for the Plaintiff states that the declaration firstly is made by the Gujarat State and is therefore not applicable in Maharashtra State. It was in force till 27-2-2006. The Defendant No.1 has not produced any document to show that the

declaration has been extended. In view of this, the second defence also has no force.

4. The third and the last defence is that an amount of Rs.16 lakh was paid by cheque for which the credit is not given. The Plaintiff has produced a copy of letter dated 5th March, 2004 along with which the cheque of Rs.16 lakh was sent by the Defendant. That letter shows that the amount was paid not against the bill of exchange, but for getting delivery of 21 bundles of stainless pipes. There is no further affidavit filed by the Defendants disputing this position.

5. In this view of the matter, it is clear that the defences offered by the Defendants have no substance. The Defendants are not entitled to leave to defend. The summons for judgment is, therefore, granted. Suit of the Plaintiff is decreed in terms of prayer clause of the suit. Refund of court fees as per rules.

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